

**IN THE MATTER OF**

\*

**BEFORE THE**

**CRYSTAL M. McGINTY, M.D.**

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**MARYLAND STATE**

**Respondent**

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**BOARD OF PHYSICIANS**

**License Number: D36182**

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**Case Number: 2219-0011A**

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**ORDER FOR SUMMARY SUSPENSION OF LICENSE TO PRACTICE  
MEDICINE**

Disciplinary Panel A ("Panel A") of the Maryland State Board of Physicians (the "Board") hereby **SUMMARILY SUSPENDS** the license of **CRYSTAL M. McGINTY, M.D.** (the "Respondent"), License Number D36182, to practice medicine in the State of Maryland.

Panel A takes such action pursuant to its authority under Md. Code Ann., State Gov't ("State Gov't") § 10-226(c)(2) (2014 Repl. Vol. and 2017 Supp.) and Md. Code Regs. ("COMAR") 10.32.02.08B(7), concluding that the public health, safety or welfare imperatively requires emergency action.

**INVESTIGATIVE FINDINGS**

Based on information received by, and made known to Panel A, and the investigatory information obtained by, received by and made known to and available to Panel A, including the instances described below, Panel A has reason to believe that the following facts are true:

## **I. BACKGROUND**

1. The Respondent was originally licensed to practice medicine in Maryland on December 31, 1987, under License Number D26182. The Respondent's latest license was given the expiration date of June 30, 2019.

2. The Respondent is currently employed as a physician at a health care facility ("Facility A")<sup>1</sup> in Greenbelt, Maryland, and performs physical examinations, pre-operative evaluations and acts as a second surgeon assisting in its ambulatory surgical center. For the past two years, the Respondent has also been employed at a health care facility ("Facility B") in Silver Spring, Maryland, working with weight loss patients. The Respondent was previously employed at a health care facility ("Facility C") as a locum tenens physician from in or around April 2018 to in or around August 2018.

3. The Respondent is not board-certified in any medical specialty.

## **II. THE COMPLAINT**

4. The Board initiated an investigation of the Respondent after receiving a complaint, dated July 18, 2018, from a pharmacy manager (the "Complainant") of a pharmacy located in Cambridge, Maryland. The Complainant reported that the pharmacy had received an influx of prescriptions for oxycodone 30 mg,<sup>2</sup> in quantities of 120 units or greater, which were written/issued by the Respondent. The Complainant reported that he was unable to contact the Respondent when questioning such prescribing. The

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<sup>1</sup> For confidentiality reasons, the names/identities of medical facilities, Complainants, pharmacies, and other individuals will not be disclosed in this document. The Respondent may obtain the identity of any entity/individual referenced herein by contacting the assigned administrative prosecutor.

<sup>2</sup> Oxycodone is an opioid analgesic and is a Schedule II controlled dangerous substance.

Complainant stated that despite not being able to reach the Respondent by telephone, he observed her patients having “no problem” calling the Respondent on her cell phone and reaching her. The Complainant stated that several of the Respondent’s patients have never received narcotics previously but that the Respondent is prescribing oxycodone 30 mg on their first visits with her.

5. The Complainant stated he telephoned the Respondent to ask why a Maryland Medicaid patient was paying cash in Delaware for the Respondent’s prescriptions. In response, the Respondent laughed and stated, “I have no idea.”

6. The Complainant concluded the complaint by stating that the Respondent’s “prescribing pattern is unethical, and her patient/Dr. relationships are unusual.”

### **III. SUBSEQUENT BOARD INVESTIGATION**

7. By letter dated August 29, 2018, the Board notified the Respondent that based on the above complaint, it had opened an investigation of her. The Board requested a response to the complaint and complete an information form.

8. The Respondent’s counsel submitted a letter dated September 7, 2018, in which she notified the Board that her client, the Respondent, had been charged with crimes in the United States District Court for the District of Maryland. The Respondent’s counsel stated that the Respondent had been charged in a matter in Case No. 18-00407-PX with mail fraud, in violation of 18 U.S.C. § 1341; theft of government property, in violation of 18 U.S.C. § 641; and aggravated identity theft, in violation of 18 U.S.C. § 1028A. The Respondent’s counsel stated that the charges stem from accusations that the Respondent continued to receive Social Security benefits on behalf of

her deceased mother. The letter from the Respondent's counsel also disclosed further information about the Respondent on this date.

9. On September 27, 2018, Board staff contacted the Respondent's counsel about the Respondent's pending criminal matter. In this telephone conversation, the Respondent's counsel provided updated information to Board staff regarding the information previously disclosed on September 7, 2018, and a court hearing scheduled for October 4, 2018. The Respondent's counsel further advised that the Respondent did not provide her with the Board's August 29, 2018, letter until September 24, 2018, and that she would likely seek an extension of time for the material the Board requested.

10. Board staff obtained the indictment associated with Case No. 8:18-cr-00407-PX (the "Indictment"), which was filed on July 31, 2018, against the Respondent in the United States District Court for the District of Maryland. The Indictment states that beginning in or around June 2005 and continuing through in or around June 2018, the Respondent:

- a. For the purpose of executing and attempting to execute a scheme and artifice to defraud and deprive, the Respondent knowingly caused to be delivered by mail according to the direction thereon mail matter, to wit: The Techers' Retirement System of the City of New York pension check payable and mailed to the Respondent's mother at the Respondent's address. 18 U.S.C. § 1341 (Mail Fraud), 18 U.S.C. § 2 (Forfeiture Allegations).
- b. Did embezzle, steal, purloin and knowingly convert to her use and use of another, money of the United States, whose value exceeded \$1,000, namely Social Security Retirements Insurance Benefits payments, to which she was not entitled. 18 U.S.C. § 641 (Theft of governmental Property), 18 U.S.C. § 2 (Forfeiture Allegations).

- c. Did knowingly use, without lawful authority, a means of identification of another person during and in relation to a felony violation enumerated in 18 U.S.C. § 1028A(c), to wit: Mail Fraud in violation of 18 U.S.C. § 1341, knowing that the means of identification belonged to another actual person. 18 U.S.C. § 1028A(a)(1).

11. On November 1, 2018, the Board issued a subpoena to the Respondent to appear for an interview at the Board's offices. On November 19, 2018, the Respondent, accompanied by counsel, appeared at the Board for an under-oath interview. During the interview, Board staff attempted to question the Respondent about the above complaint and her practices at Facility C, at which point the Respondent's counsel informed Board staff that there was an ongoing federal investigation pending against Facility C, and that the Respondent would be invoking her Fifth Amendment right against self-incrimination under the United States Constitution and would not be answering any questions regarding those subject areas. The Respondent further invoked her right against self-incrimination to questions regarding: the allegation in the complaint that her "prescription pattern is unethical, and her patient/Dr. relationships are unusual"; prescribing to family members; prescribing medications to patients to include querying the Prescription Drug Monitoring Program to monitor compliance while at Facility C; the basis for her decision to leave employment at Facility C; and the charges pending against her in the United States District Court for the District of Maryland. Board staff also questioned the Respondent regarding the information voluntarily disclosed by the Respondent's counsel to Board staff on September 7 and September 27, 2018. The Respondent's counsel refused to permit the Respondent to answer such questions, citing "medical privilege" and his

assertion that the Board had no right to “get into her health status,” which he claimed “was not an issue.”

12. By letter dated December 5, 2018, the Board, pursuant to Health Occ. § 14-402,<sup>3</sup> referred the Respondent to a Board-approved program (the “Program”) for an evaluation. Based on § 14-402(c), the Board’s notice advised the Respondent that “unreasonable failure or refusal to submit to examination is prima facie evidence of a licensed medical practitioner’s inability to practice medicine, unless the Board finds that the failure or refusal was beyond the control of the individual.”

13. On December 7, 2018, the Respondent entered into a plea agreement (“Plea Agreement”) with the United States Attorney’s Office for the District of Maryland. Pursuant to the Plea Agreement, the Respondent agreed to enter pleas of guilty to: Count One of the above Indictment, Mail Fraud, that on or about the time alleged in the Indictment, the Respondent (a) devised or intended to devise a scheme to defraud; and (b) used the mail for the purpose of executing, or attempting to execute, the scheme, in violation of 18 U.S.C. § 1341; and Count Two of the above Indictment, Theft of

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<sup>3</sup> Health Occ. § 14-402(a) states: In reviewing an application for licensure, certification, or registration or in investigation against a licensed physician or any allied health professional regulated by the Board under this title, the Physician Rehabilitation Program may request the Board to direct, or the Board on its own initiative may direct, any physician or any allied health professional regulated by the Board under this title to submit to an appropriate examination.

Health Occ. § 14-402(b) states: In return for the privilege given by the State issuing a license, certification, or registration, the licensed, certified, or registered individual is deemed to have: (1) Consented to submit to an examination under this section, if requested by the Board in writing; and (2) Waived any claim of privilege as to the testimony or examination reports.

Health Occ. § 14-402(c) states: The unreasonable failure or refusal of the licensed, certified, or registered individual to submit to an examination is prima facie evidence of the licensed, certified, or registered individual’s inability to practice medicine or the respective discipline competently, unless the Board finds that the failure or refusal was beyond the control of the license, certified, or registered individual.

Government Property, that on or about the time alleged in the Indictment, the Respondent (a) knowingly converted to the Respondent's use property, with the intention of depriving the owner of its benefit or use; (b) the property belonged to the United States; and (c) the property had a value greater than \$1000.

14. According to the Plea Agreement, the Respondent and the United States Attorney's Office stipulated and agreed that a sentence of 37 months in the custody of the Bureau of Prisons was the appropriate disposition in the case.

15. On December 7, 2018, the Respondent executed a Stipulation of Facts in conjunction with the Plea Agreement, which stated the following:

Crystal Mebane McGinty ("MCGINTY"), age 58, is a resident of Silver Spring, Maryland. At all times relevant, MCGINTY worked as a physician at various practices in the State of Maryland and District of Columbia.

From in or around June 2005 through in or around June 2018, MCGINTY engaged in a scheme to commit mail fraud and theft of government property by means of materially false and fraudulent pretenses. In the scheme, MCGINTY spent her deceased mother's Social Security Administration ("SSA") Retirement Insurance Benefits ("RIB") payments and Teachers' Retirement System of the City of New York ("TRSCNY") pension payments and failed to disclose and concealed her mother's death from SSA and TRSCNY, in part, by posing as her deceased mother.

MCGINTY'S mother, D.M., died on or about June 17, 2005, and her death certificate names MCGINTY as the informant. In or about the year 2016, SSA suspected that D.M. was deceased, but was still receiving RIB payments by direct deposit into an account titled in the names of MCGINTY, D.M., and D.M.'s deceased husband, R.M.

On or about January 9, 2017, agents of SSA's Office of Inspector General met with MCGINTY at the health clinic at which she worked. MCGINTY was evasive in responding to questions regarding whether her mother was alive, and ultimately falsely stated that her mother was alive, "as far as she [knew]." MCGINTY acknowledged that she used the joint account into which SSA benefits were deposited, but falsely denied spending any of

D.M.'s SSA benefits. MCGINTY admitted that she received and purposefully failed to respond to SSA notices mailed to her address requesting that she contact SSA.

Agents learned through their investigation that MCGINTY was also depositing her mother's TRSCNY pension checks into the joint checking account, which were sent to MCGINTY'S home each month by United States Mail. Before depositing the checks, MCGINTY endorsed the checks as herself, and then countersigned them as D.M.

TRSCNY records show that MCGINTY submitted to TRSCNY several "proof of life" forms, from 2012 to 2017, attesting that D.M. was still alive, and on which MCGINTY forged D.M.'s signature, and also signed the documents as D.M.'s attesting physician. TRSCNY records also indicate that on or about May 31, 2016, MCGINTY contacted the TRSCNY customer service hotline and identified herself as D.M., and provided D.M.'s partial social security number and date of birth for identification purposes. MCGINTY contacted TRSCNY because it had ceased mailing D.M.'s pension checks, and MCGINTY sought to have the payments reinstated.

In total, MCGINTY spent approximately \$304,000 in funds belonging to TRSCNY and \$213,000 in funds belonging to SSA. MCGINTY often withdrew the funds as cash or transferred them to her personal accounts each month, and also spent the funds on expenses such as the mortgage and utilities for her Silver Spring home, renewal of her medical license, department store purchases, expenses associated with a cruise for a family vacation, purchases during a trip to the island of St. Thomas, and tuition for private schools for her children.

16. On or about December 13, 2018, the Respondent, accompanied by counsel, appeared at the Board-approved Program for intake, pursuant to the Board's referral for an appropriate examination under Health Occ. § 14-402, and the Board's notice sent to the Respondent on December 5, 2018.

17. On or about December 14, 2018, the Program Director notified the Board that based on interactions with the Respondent and her counsel, the Program was unable to undertake a comprehensive evaluation of the Respondent. The Program did provide



other relevant, substantive information to the Board regarding its encounter with the Respondent, however.<sup>4</sup>

18. On multiple occasions, the Respondent has failed to provide relevant information to the Board upon request. On September 21, 2018, the Board forwarded to the Respondent an Authorization for Release of Information form to complete. On October 1, 2018, the Board sent a follow-up letter notifying the Respondent of its investigation, requested a written response, a completed information form and requested that the Respondent sign an Authorization of Release of Information form. To date, the Respondent has not complied with any of these Board directives.

19. On December 14, 2018, the Respondent's counsel advised Board staff that on January 2, 2019, the Respondent would be entering a guilty plea to the pending criminal charges against her in the United States District Court for the District of Maryland.

20. On January 2, 2019, the Respondent appeared in the United States District Court for the District of Maryland and entered pleas of guilty to Count One (Mail Fraud) and Count Two (Theft of Government Property) of the above Indictment. A sentencing date has been scheduled in this matter for April 4, 2019.

21. Based on the above investigative facts, Panel A finds that the Respondent presents a substantial likelihood of a risk of serious harm to the public health, safety and welfare.

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<sup>4</sup> In order to maintain confidentiality, the details of this information, which is relevant and material to this matter, will not be disclosed in this Order, but the report will be made available to the Respondent upon request.

### CONCLUSIONS OF LAW

Based upon the foregoing Investigative Findings, Panel A of the Board concludes that the public health, safety, or welfare imperatively requires emergency action, and that pursuant to State Gov't § 10-226(c)(2) and COMAR 10.32.02.08B(7), the Respondent's license is summarily suspended.

### ORDER

**IT IS** thus, by Panel A of the Board, hereby:

**ORDERED** that pursuant to the authority vested in Panel A by State Govt. § 10-226(c)(2)(2014 Repl. Vol. and 2017 Supp.) and COMAR 10.32.02.08B(7), the Respondent's license to practice medicine in the State of Maryland is hereby **SUMMARILY SUSPENDED**; and it is further

**ORDERED** that in accordance with Md. Code Regs. 10.32.02.08B(7) and E, a post-deprivation initial hearing on the summary suspension will be held on **Wednesday, January 16, 2019, at 1:00 p.m.** at the Board's offices, located at 4201 Patterson Avenue, Baltimore, Maryland, 21215-0095; and it is further

**ORDERED** that after the **SUMMARY SUSPENSION** hearing before Panel A, the Respondent, if dissatisfied with the result of the hearing, may request, within ten (10) days, an evidentiary hearing, such hearing to be set within thirty (30) days of the request, before an Administrative Law Judge at the Office of Administrative Hearings, Administrative Law Building, 11101 Gilroy Road, Hunt Valley, Maryland 21031-1301; and it is further

**ORDERED** that a copy of the Order for Summary Suspension shall be filed by Panel A immediately in accordance with Health Occ. § 14-407 (2014 Repl. Vol.); and it is further

**ORDERED** that this is an Order of Panel A, and as such, is a public document.  
*See* Health Occ. §§ 1-607, 14-411.1(b)(2) and Md. Code Ann., Gen. Prov. § 4-333(b)(6).

01/03/2019  
Date

Christine A. Farrelly  
Christine A. Farrelly, Executive Director  
Maryland State Board of Physicians